

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

NATIONAL RIFLE ASSOCIATION OF
AMERICA,

Plaintiff/Counter-Defendant,

v.

LOCKTON AFFINITY SERIES OF
LOCKTON AFFINITY, LLC, and
KANSAS CITY SERIES OF LOCKTON
COMPANIES, LLC,

Defendants/Counter-Plaintiffs.

Civil Action No.: 1:18-cv-00639-LO-JFA

JOINT RULE 26(f) REPORT AND PROPOSED DISCOVERY PLAN

Pursuant to Rule 26(f) of the Federal Rules of Civil Procedure, Rule 26(A) of the Local Civil Rules for the United States District Court for the Eastern District of Virginia (the “Local Rules”), and this Court’s Order, dated July 27, 2018 (the “Initial Order”), Plaintiff/Counter-Defendant National Rifle Association of America (the “NRA”) and Defendants/Counter-Plaintiffs Lockton Affinity Series of Lockton Affinity, LLC and Kansas City Series of Lockton Companies, LLC (together, “Lockton”), by their respective undersigned counsel, respectfully submit this Joint Rule 26(f) Report and Proposed Discovery Plan.

1. **Rule 26(f) Conference.** On August 9, 2018, counsel for the parties participated in a telephonic conference pursuant to Rule 26(f) of the Federal Rules of Civil Procedure. The parties subsequently conferred by telephone and by email regarding matters discussed at the Rule 26(f) conference.

2. **Rule 16(b) Conference.** Pursuant to the Court’s Order, dated August 10, 2018, the parties do not believe that a Rule 16(b) conference with Magistrate Judge Anderson is necessary.

3. **Settlement.** Pursuant to Rule 26(f)(2) of the Federal Rules of Civil Procedure and the Initial Order, the parties discussed the possibility of settling or resolving this case. The parties both expressed an openness to considering settlement, including mediation of the parties' respective claims, and are continuing discussions in that regard.

4. **Initial Disclosures.** Initial disclosures pursuant to Rule 26(a)(1) of the Federal Rules of Civil Procedure will be exchanged on August 24, 2018.

5. **Expert Disclosures.** Expert disclosures on issues for which a party bears the burden of proof shall be served by October 15, 2018. Rebuttal expert disclosures shall be served by November 14, 2018.

6. **Discovery Deadline.** In accordance with the Initial Order, discovery shall be completed by December 14, 2018. The parties do not believe that discovery needs to be conducted in phases. The parties will attempt in good faith to substantially complete document production by September 30, 2018, except for documents responsive to requests for production served after August 30, 2018.

7. **Discovery Limitations.** At this time, the parties do not anticipate requiring any changes to the limitations on discovery imposed by the Federal Rules of Civil Procedure, the Local Rules, or the Initial Order.

8. **Electronically Stored Information.** Pursuant to Rule 26(f)(3)(C) of the Federal Rules of Civil Procedure, the parties discussed the discovery and preservation of electronically stored information ("ESI"). The parties will negotiate proposed protocols governing discovery of ESI and submit a stipulated ESI protocol for the Court's approval.

9. **Privilege Log.** In accordance with Rule 26(b)(5)(A) of the Federal Rules of Civil Procedure, the parties will produce a privilege log identifying documents or information withheld

from production on the basis of any privilege or other legal protection or immunity. The parties further agree that privilege logs need not include privileged communications between a party and its counsel of record in this action regarding this above-captioned lawsuit or its predecessor action, nor include attorney work product developed or prepared in connection with this action by counsel of record.

10. **Protective Order.** The parties agreed to prepare a stipulated protective order governing the disclosure and use of confidential, privileged, or otherwise protected information in discovery. The stipulated protective order shall contain provisions governing information produced in discovery subject to a later claim of privilege or other legal protection consistent with Rule 26(b)(5)(B) of the Federal Rules of Civil Procedure. The parties will submit the stipulated protective order for the Court's approval.

11. **Electronic Service.** Pursuant to Rule 5(b)(2)(E) of the Federal Rules of Civil Procedure, the parties agree to accept service by email for discovery requests and responses and objections thereto, correspondence, and other papers not filed with the Clerk of the Court using the CM/ECF system. If the transmission of voluminous materials by email is impractical, the parties agree to accept service by File Transfer Protocol.

12. **Dispositive, Daubert, and In Limine Motions.** The parties agree that any dispositive, *Daubert*, or *in limine* motion must be filed by December 21, 2018. The parties further agree that any opposition to such motion must be filed by January 4, 2019, and any reply in further support of such motion must be filed by January 10, 2019.

13. **Final Pretrial Conference.** Pursuant to the Initial Order, the final pretrial conference will be held on December 21, 2018, at 1:30 p.m.

14. **Trial.** At this time, the parties currently estimate that a trial in this case will take approximately seven days. The parties shall meet and confer about the length of the trial prior to the final pretrial conference and advise the Court of any adjustment to the estimate of the length of trial at or before the final pretrial conference.

15. **Magistrate Judge.** At this time, the parties do not consent to the exercise of jurisdiction by a United States Magistrate Judge for trial.

16. **Modification.** The parties agree that a party's agreement to the deadlines and limitations stated in this Joint Rule 26(f) Report and Proposed Discovery Plan is without prejudice to its right to seek modification of the plan and pretrial schedule pursuant to Rules 16 and 26 of the Federal Rules of Civil Procedure.

Dated: August 22, 2018

Respectfully submitted,

NATIONAL RIFLE ASSOCIATION OF
AMERICA

By: /s/ Robert H. Cox

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Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on August 22, 2018, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all counsel of record, including:

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